

AGREEMENT TO DEDICATE CVPIA SECTION (b)(2) WATER

by and among

U.S. FISH AND WILDLIFE SERVICE and

U.S. BUREAU OF RECLAMATION

This Agreement is entered into by and among U.S. Fish and Wildlife Service (Service), and U.S. Bureau of Reclamation (Reclamation), (hereinafter collectively referred to as the “Parties”) as an element of the proposed Saeltzer Dam Fish Passage and Flow Preservation Project.

1.0 RECITALS

The Parties enter into this Agreement with the following understandings:

- 1.1** Clear Creek is a tributary of the Sacramento River located in Shasta County that is regulated by Whiskeytown Dam. State and federal fisheries agencies desire to improve access to Clear Creek for fall-run, late fall-run, and spring-run chinook salmon and steelhead trout. A Comprehensive Program to provide flows for these species in conjunction with stream restoration and fish passage at the Saeltzer Dam is a major requirement of the Central Valley Project Improvement Act (CVPIA).
- 1.2** Reclamation and Townsend Flat Water Ditch Company (Townsend) are pursuing the proposed Saeltzer Dam Fish Passage and Flow Preservation Project (Proposed Project). A key component of the Proposed Project is the elimination of Townsend’s diversion of up to 12,500 acre-feet of Clear Creek flows at Saeltzer Dam. In exchange, Reclamation will provide Townsend with 6,000 acre-feet of water annually. Other components of the Proposed Project that are requisite to this Agreement include:
- a. Removal of the Saeltzer Dam; and
 - b. Execution and implementation a new base instream flow agreement incorporating the pertinent provisions of the existing California Department of Fish and Game and National Park Service agreement.

2.0 OBLIGATIONS:

The Parties agree as follows:

- 2.1** Reclamation will enter into and implement a new instream flow agreement with the Service and California Department of Fish and Game specifying minimum instream flows in Clear Creek.
- 2.2** Reclamation will take whatever legal and/or administrative action is reasonably necessary to ensure the minimum instream flows referenced in paragraph 2.1 above are protected from diversion to the confluence of Clear Creek with the Sacramento River.
- 2.3** In recognition of the improved flow conditions in lower Clear Creek that will result from the Proposed Project, and to mitigate impacts to other Central Valley Project water users that might otherwise occur as a result of the Proposed Project, the Service will annually dedicate to the Proposed Project up to 900 acre-feet of CVPIA Section 3406(b)(2) water.
- 2.4** The allocation of CVPIA Section (b)(2) water will commence in the water year (October-September) following implementation of all components of the Proposed Project. The actual amount of CVPIA Section (b)(2) water so dedicated will be 900 acre-feet in each year in which the full 6,000 acre-feet will be delivered to Townsend pursuant to the Reclamation-Townsend Settlement Agreement. In the event that less than 6000 acre-feet is provided, the formula below shall be used to compute the amount of CVPIA Section (b)(2) water dedicated and will reduce the CVPIA Section (b)(2) water dedicated for this purpose in the following water year. That calculation will be based on the increase on consumptive use expected to result from implementation of the Proposed Project and will use the following formula:

$$(b)(2) \text{ allocation} = (\text{Quantity actually delivered} - 4400 \text{ acre-feet}) \times 0.56$$

where:

4,400 = the annual quantity of water historically delivered to

Townsend Water Ditch Company. Annual deliveries in excess of that quantity will be supported with a (b)(2) allocation.

0.56 = the estimated consumptive use rate associated with the anticipated annual deliveries of water to The McConnell Foundation and Centerville Community Services District under the Proposed Project.

A (b)(2) allocation will be made only if the quantity calculated is positive

3.0 MODIFICATION OR TERMINATION

This Agreement shall be fully implemented and remain in effect in perpetuity unless modified or terminated by mutual consent of both Parties.

4.0 SIGNATURES

This Agreement may be executed in counterparts. Reclamation shall retain a copy of the Agreement with all original executed signatures. Reclamation will distribute copies of the Agreement with executed signature pages to the Service within 30 days of the Agreement's execution. Each Party hereby represents and warrants that the person executing this Agreement on its behalf is duly authorized to do so.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the last date written below:

U.S. BUREAU OF RECLAMATION

Lester Snow, Regional Director

Date

U.S. FISH AND WILDLIFE SERVICE

Michael J. Spear, Manager CA/NV Office

Date